D.B. Civil Writ Petition No.874/2000

Ram Kishan Songara
Vs.
The Rajasthan High Court, Jodhpur

Date of Order :: 07-04-2006

HON'BLE THE CHIEF JUSTICE SHRI S.N.JHA
HON'BLE JUSTICE SHRI GOPAL KRISHAN VYAS

Mr. Sanjay Mathur, for the petitioner.
Mr. Sangeet Lodha, for the respondent.

The petitioner who is a member of the Rajasthan Higher Judicial Service, was communicated the following remarks for the year 1993 vide letter dated 27.1.1996:

> "Requires improvements in Judgments. Disposal of work is not adequate. He is lethargic. No will to work. His work disposal was lowest in the Judgeship. Disposal below average."

He was permitted to make representation which he did but the same was rejected on 9.6.1999. The petitioner thereafter filed this writ petition seeking among others the following reliefs:

> "(ii) That entire record pertaining to the petitioner on the basis of which adverse remarks are entered in the Annual Confidential Report of the petitioner for the year 1993 may kindly be called for and the same may be judicially scrutinised;
>
> (iii) That adverse remarks entered in

the Annual Confidential Report of the petitioner for the year 1993 may kindly be expunged. Accordingly, Annex.1 dated 27.1.1996 and Annex.3 dated 9.6.1999 may also be quashed and set aside;

(iv) That the respondent may kindly be directed not to take into consideration the adverse remarks entered in the petitioner's Annual Confidential Report for the year 1993."

It is obvious that what the petitioner really wants is that this Court should sit in appeal over the remarks made on administrative side and set aside the same but considering the nature and scope of jurisdiction under Article 226 of the Constitution of India, we cannot do that. It is beyond our comprehension as to how we can hold that the judgments of the petitioner do not require any improvement; that his disposal is not adequate; that he is not lethargic and so on. This can be considered only on the administrative side. The petitioner did file representation but without any favourable request. It was submitted that the communication does not set out reasons for rejecting the representation. The submission is totally misconceived and reference to the case of Union of India & Ors. Vs. E.G. Nambudiri, JT 1991(2) S.C. 285 may suffice. The decision in no uncertain terms holds that unless so required under any rule or administrative order, an administrative decision need not assign reasons. Nor it is the requirement of rules of natural justice to give reasons for

taking administrative decisions. The decision in E.G. Nambudiri(supra) was rendered in the context of representation against adverse remark in the confidential record and squarely answers the submission of the petitioner's counsel. We thus find no merit in this writ petition. We would, however clarify that if in future any adverse action is taken against the petitioner on the basis of impugned adverse remarks, he may challenge the adverse action and incidentally question the adverse remark.

With this observation, the petition is dismissed.

[GOPAL KRISHAN VYAS],J. [S.N.JHA],CJ.

Praveen

D.B. Civil Special Appeal No.49/1986

Date of Order :: 07-04-2006

HON'BLE THE CHIEF JUSTICE SHRI S.N.JHA
HON'BLE JUSTICE SHRI GOPAL KRISHAN VYAS

Mr. L.R. Mehta, for the petitioner.
Mr. Manish Shishodia, for the respondent.

Shri L.R.Mehta appearing for the appellant stats that he will have copies of the paper-book xeroxed and supply two sets to the Court and another set to the respondent's counsel within two weeks.

List the matter after two weeks as prayed for.

[GOPAL KRISHAN VYAS],J. [S.N.JHA],CJ.

Praveen